HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO.27063 OF 1995

Between:

B.Loichan

. . .Petitioner

AND

Girijan Cooperative Corporation Limited

. . .Respondent

Counsel for the petitioner : Shri P.Venkata Rama Sarma
for Shri P.B.Vijaya Kumar

Counsel for the respondent : Shri N.Sreedhar Reddy

Dated: 5th July, 2006

: ORDER :

This is a petition for quashing order dated 03.10.1995 passed by Vice Chairman and Managing director of Girijan Cooperative Corporation Limited (respondent herein) whereby special pay sanctioned to petitioner was withdrawn.

The petitioner joined the service of Girijan Cooperative Corporation Limited as Attender on 13.03.1971. He was promoted as Light Vehicle Driver on 03.06.1976. While on duty, he met with an accident on 17.03.1993. He was sentenced to pay fine of Rs.80/- by the Executive Magistrate. As a sequel to this, he was reverted to the post of Attender, order dated 25.06.1993. However, he was paid special pay of Rs.100/-. The respondent issued the impugned order for withdrawal of the special allowance payable to the petitioner.

The petitioner has challenged the impugned order on several grounds, including the one that before withdrawing the special allowance, the respondent did not give him notice and opportunity of hearing.

In the counter affidavit filed on behalf of the respondent, it has not been denied that impugned order was issued without giving notice and opportunity of hearing to the petitioner.

I have heard learned counsel for the parties and perused the record. Since it is not in dispute that order withdrawing the benefit of special pay was passed without giving any action oriented notice and opportunity of hearing to the petitioner, it must be held that the same is vitiated due to violation of the rules of natural justice and is liable to be quashed by applying the ratio of the judgments of the Supreme Court

in **State of Orissa v. Dr. (Miss) Binapani Dei and others**[1], **Sayeedur Rehman v. State of Bihar**[2], **Maneka Gandhi v. Union of India**[3], **S.L.Kapoor v. Jagmohan**[4] and **Olga Tellis v. Bombay Municipal Corporation**[5]**.** Ordered accordingly.

However, it is made clear that this order shall not preclude the competent authority from taking fresh decision in the matter after giving notice and opportunity of hearing to the petitioner.

G.S.SINGHVI, CJ

Date: 05.07.2006

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[1] AIR 1967 SC 1269
[2] AIR 1973 SC 239
[3] AIR 1978 SC 597
[4] AIR 1981 SC 136
[5] AIR 1986 SC 180